

Eric James Coon #25665
Name and Prisoner/Booking Number

South Dakota State Penitentiary
Place of Confinement

Box 5911
Mailing Address

Sioux Falls, SD 57117-5911
City, State, Zip Code

FILED

NOV 05 2014


CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
Southern DIVISION

Eric J. Coon
(Full Name of Plaintiff)

Plaintiff,

vs.

Dr. Mary Carpenter
Prison Medical Provider

Sued in her individual Capacity
(Full Name of Each Defendant)

Defendants.

Case No. CIV. 14-4165
(To be supplied by the Clerk)

CIVIL RIGHTS COMPLAINT
BY A PRISONER

(Jury Trial Demanded)

- ☒ Original Complaint
☐ First Amended Complaint
☐ Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:
- ☒ 28 U.S.C. § 1343(a)(3); 42 U.S.C. § 1983
 - ☐ 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).
 - ☐ Other: (Please specify.) _____

2. Name of Plaintiff: Eric Coon
Present mailing address: SDSP, Box 5911, Sioux Falls, SD 57117-5911
(Failure to notify the Court of any change of address may result in dismissal of this action.)

Institution/city where violation occurred: South Dakota State Prison

3. Name of first Defendant: Dr. Mary Carpenter. The first Defendant is employed as:
Contracted medical Provider at South Dakota State Penitentiary.
 (Position and Title) (Institution)

This Defendant is sued in his/her: ☒ individual capacity ☐ official capacity (check one or both)

Explain how this Defendant was acting under color of law: _____

4. Name of second Defendant: N/A. The second Defendant is employed as:
 _____ at _____
 (Position and Title) (Institution)

This Defendant is sued in his/her: ☐ individual capacity ☐ official capacity (check one or both)

Explain how this Defendant was acting under color of law: _____

5. Name of third Defendant: N/A. The third Defendant is employed as:
 _____ at _____
 (Position and Title) (Institution)

This Defendant is sued in his/her: ☐ individual capacity ☐ official capacity (check one or both)

Explain how this Defendant was acting under color of law: _____

6. Name of fourth Defendant: N/A. The fourth Defendant is employed as:
 _____ at _____
 (Position and Title) (Institution)

This Defendant is sued in his/her: ☐ individual capacity ☐ official capacity (check one or both)

Explain how this Defendant was acting under color of law: _____

(If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.)

B. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☒ Yes ☐ No
2. If your answer is "yes," how many lawsuits have you filed? 1. Describe the previous lawsuits in the spaces provided below.
3. First prior lawsuit:
 - a. Parties to previous lawsuit:
 Plaintiff: Eric Coon

Defendants: Warden Douglas Weber Et al.

- b. Court: (If federal court, identify the district; if state court, identify the county.) United States District Court, Southern Division
- c. Case or docket number: N/A
- d. Claims raised: Personal Property
- e. Disposition: (For example: Was the case dismissed? Was it appealed? Is it still pending?) Dismissed
- f. Approximate date lawsuit was filed: 2003
- g. Approximate date of disposition: 2003-04
4. Second prior lawsuit:
- a. Parties to previous lawsuit:
- Plaintiff: _____
- Defendants: _____
- b. Court: (If federal court, identify the district; if state court, identify the county.) _____
- c. Case or docket number: _____
- d. Claims raised: _____
- e. Disposition: (For example: Was the case dismissed? Was it appealed? Is it still pending?) _____
- f. Approximate date lawsuit was filed: _____
- g. Approximate date of disposition: _____
5. Third prior lawsuit:
- a. Parties to previous lawsuit:
- Plaintiff: _____
- Defendants: _____
- b. Court: (If federal court, identify the district; if state court, identify the county.) _____
- c. Case or docket number: _____
- d. Claims raised: _____
- e. Disposition: (For example: Was the case dismissed? Was it appealed? Is it still pending?) _____
- f. Approximate date lawsuit was filed: _____
- g. Approximate date of disposition: _____

(If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.)

C. CAUSE OF ACTION

COUNT I

1. The following constitutional or other federal right has been violated by the Defendant(s): 8th Amendment Violation - Deliberate / Medical Indifference

2. Count I involves: (Check only one; if your claim involves more than one issue, each issued should be stated in a different count)

| | | |
|--|--|---|
| <input checked="" type="checkbox"/> Medical care | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Mail |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Retaliation | <input type="checkbox"/> Exercise of religion |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ |

3. **Supporting Facts:** (State as briefly as possible the FACTS supporting Count I. Describe exactly what each Defendant did or did not do to violate your rights. State the facts clearly in your own words without citing legal authority or arguments).

The Defendant, Dr. Carpenter failed to act on a medical procedure of an MRI which was requested multiple times by the prison medical staff through out the three years of extreme pain. The injury occurred around July, 2011, after multiple grievances, an MRI was granted Feb 21, 2014. The procedure revealed severe damage to the left knee "miniscus" as well as bone fusion, Baker cysts and cartilage tears. This damage was due to the prolonged failure to treat the original problem as the original tear was discovered during surgery. All the other damage was due to continued use of the knee without repair. This neglect of medical treatment while knowing by way of medical staff medical reports and requests of what was needed and still denying further procedures violated my rights to properly be medically cared for while incarcerated. It's not as if I could just leave and do it myself. Had the defendant Dr. Carpenter originally granted the procedure of the MRI original tear would have detected and could have been repaired instead further damage to the knee was created by this negligence.

4. **Injury:** (State how you have been injured by the actions or inactions of the Defendant(s)).

By this indifference and negligence, injury was created by failure to treat or denying detection methods, creating life long disabilities due to damage, with knee replacement surgery in the future, and limited use.

5. **Administrative Remedies:**

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
- Did you submit a request for administrative relief on Count I? ☒ Yes ☐ No
- Did you appeal your request for relief on Count I to the highest level? ☒ Yes ☐ No
- If you did not submit or appeal a request for administrative relief to the highest level, briefly explain why you did not. _____

COUNT II

1. The following constitutional or other federal right has been violated by the Defendant(s):
8th Amendment Violation: Cruel and Unusual Punishment

2. Count II involves: (Check **only one**; if your claim involves more than one issue, each issued should be stated in a different count)

| | | |
|--|--|---|
| <input checked="" type="checkbox"/> Medical care | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Mail |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Retaliation | <input type="checkbox"/> Exercise of religion |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Property |
| <input type="checkbox"/> Other: _____ | | |

3. **Supporting Facts:** (State as briefly as possible the FACTS supporting Count II. Describe exactly what each Defendant did or did not do to violate your rights. State the facts clearly in your own words without citing legal authority or arguments).

On March 29 1996, I was sentenced to life in prison to be cared for by the Department of Corrections. Around July of 2011 an injury occurred to my left knee, which caused deep sharp pain. For 3 years Dr. Carpenter failed to treat the injury by failing to grant an MRI to further detect the medical problem. The D.O.C. is contracted with Avera McKennan Hospital for these procedures. However, Dr. Carpenter's job as a private contract doctor, is to oversee all medical requests from the D.O.C. medical staff.

Failure to further treat the injury kept me in severe pain for over 3 years and contributed further damage to the complete knee, this causing back pain and hip problems due to having to compensate with unnatural movements. This failure to treat my medical issue will have life long effects on my every day activities.

Due to this deliberate act of indifference and un-professionalism I will suffer from pain and suffering for the rest of my life - medical staff requested multiple times through out the years for the MRI and yet the defendant chose to not treat my issue.

4. **Injury:** (State how you have been injured by the actions or inactions of the Defendant(s)).

Failure to treat my injured knee originally, caused further damage to the meniscus to occur with cartilage tears and bone wear, as well as separation of the meniscus from the bone.

5. **Administrative Remedies:**

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
- Did you submit a request for administrative relief on Count II? ☒ Yes ☐ No
- Did you appeal your request for relief on Count II to the highest level? ☒ Yes ☐ No
- If you did not submit or appeal a request for administrative relief to the highest level, briefly explain why you did not. _____

COUNT III

1. The following constitutional or other federal right has been violated by the Defendant(s): _____

Medical Malpractice and Negligence

Supplemental (State Tort Claim) "Pendent"

2. Count III involves: (Check **only one**; if your claim involves more than one issue, each issued should be stated in a different count)
- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Medical care | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Mail |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Retaliation | <input type="checkbox"/> Exercise of religion |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ |

3. **Supporting Facts:** (State as briefly as possible the FACTS supporting Count III. Describe exactly what each Defendant did or did not do to violate your rights. State the facts clearly in your own words without citing legal authority or arguments).

Deliberately failed to provide proper Treatment and to seek further medical Expertise and Procedure (M.R.I.) On injury as Reported By D.O.C medical Doctors and Staff and as Requested multiple times Through out 3 years of Complaints by petitioner

This practice is Not the normal practice of Doctors. it is Un-ethical and Un-Professional as The Only Cause of The Denial of further medical Treatment as requested would only Serve to Save money in which Could Only be the proper Facts as There are No other reasons for The Pro-langed Delay.

These Actions Created more damage and injury to The Knee and Body as well as health issues to The Petitioner.

4. **Injury:** (State how you have been injured by the actions or inactions of the Defendant(s)).

By Having all the Proper information and Requests By D.O.C medical Staff The Defendant Knowingly and Willingly Denied all requests for further treatment in which Created further injury to the Knee with life long pain and Disabilities

5. **Administrative Remedies:**

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
- Did you submit a request for administrative relief on Count III? ☒ Yes ☐ No
- Did you appeal your request for relief on Count III to the highest level? ☒ Yes ☐ No
- If you did not submit or appeal a request for administrative relief to the highest level, briefly explain why you did not. _____

(If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.)

D. REQUEST FOR RELIEF

State briefly what you want the Court to do for you.

Plaintiff asks This Court to grant monetary Damage in
The Sum of Six million Dollars (6,000,000) From the Defendant
Doctor Mary Carpenter Health Care Provider for The Department
of Corrections for the following Reasons

1.) The intentional and knowing Act of Deliberate Indifference
To a Serious Medical Need and Treatment in Violation of the 8th Amend

2) 8th Amendment for Cruel and Unusual Punishment for intentional
and knowingly Denying medical Care resulting in injury and Extreme
Pain for a period of 3 1/2 years, and future

3) Medical Malpractice, failure To grant any Requests for further
Procedures That Would Detect extent of injury for possible medical Treatment
with full Access of files, Request reports and reports of pain and injury.
She knowingly and willingly Denied all Requests to Save money Causing injury

I declare under penalty of perjury that the foregoing is true and correct.

Executed on Oct 29 2014
DATE


SIGNATURE OF PLAINTIFF

(Name and title or paralegal, legal assistant, or
other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If needed, you may attach additional pages. The form, however, must be completely filled in to the extent applicable.